THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15523 of 2007

23.7.2007

Between:

Kantamaneni Srinivas Prasad, S/o.Late Kantamaneni Venkata Subba Rao

... Petitioner

AND

The Sub-Registrar, Challapalli, Krishna District
And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The land admeasuring Acs.0.60 (2.62 Hectares) in survey No.418/7, 8 and Acs.0.10 (0.040 Hectares or 484 Sq.yards) in Door No.1/37 (old Door No.1/34) Block No.1, situated at Pagolu village of Challapalli Mandal in Krishna District, is the property of one Kantamaneni Venkateswara Rao. The petitioner is allegedly his nephew. It appears that Venkateswara Rao executed a registered Will, dated 03.1.2005, but the same was allegedly cancelled. Venkateswara Rao died on 27.2.2007. However, sixth respondent, who is brother of Venkateswara Rao, and fifth respondent, who is sister's son of Venkateswara Rao, allegedly created some documents and approached respondents 3 and 4 seeking necessary changes in the record of rights and also mutation in their favour. Having come to know this, petitioner who claims a share in the property of Venkateswara Rao, issued caution notice in Eenadu Telugu daily newspaper. He also sent legal notice dated 28.6.2007 to respondents 1 to 4. First respondent, namely, Sub-Registrar, received the notice and informed the petitioner that the same will be treated as objection petition as and when any document in relation to the property is submitted for registration and informed that registration cannot be stopped. Notice sent to respondents 3 and 4, however, was refused. The postal covers sent to them returned unserved with endorsement, "not at office on 02.7.2007 and party refused to receive on 03.7.2007". Therefore the petitioner filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents 3 and 4 in not receiving the legal notice dated 28.6.2007 as illegal and arbitrary.

Learned Counsel for the petitioner submits that respondents 3 and 4 are bent upon helping respondents 5 and 6 and mutated the

property in their favour to enable them to sell the property. Petitioner has a share in the property of his paternal uncle and therefore the inaction on the respondents 3 and 4 would deprive the petitioner from claiming his share in the property. He also submits that even if the petitioner wants to go to Civil Court, he has to comply with the provisions under Section 80 of the Code of Civil Procedure, 1908 (CPC). Therefore, petitioner seeks direction to respondents 3 and 4 to receive the legal notice.

The petitioner prayed for a peculiar relief in this writ petition. He seeks a direction to respondents 3 and 4 to receive the legal notice to enable the petitioner to file a suit against them. Such a writ petition would not lie. There is no law, which compels a person who is likely to be a party to litigation to receive/refuse a legal notice. If respondents 3 and 4 refused to receive the notice, petitioner can take advantage of the same and always contend before appropriate Court that refusal itself would sufficient service of the notice. The writ petition is therefore liable to be dismissed with exemplary costs. However as the writ petition is disposed of at the admission stage, this Court refrains from imposing costs.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

July 23, 2007.
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